

SUPPLEMENTAL RESPONSE UNDER 37 C.F.R. § 1.114(c)

Attorney Docket No.: Q86966

Appln. No.: 10/528,691

REMARKS

Claims 1-8 and 13-23 are all the claims pending in the application.

Initially, Applicants would like to thank the Examiner for the telephone interview conducted with Applicants' representative on June 14, 2010.

Claims 4 and 21 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In addition, the specification is objected to because it allegedly contains new matter.

Applicants respectfully traverse the rejection and objection for the reasons of record and for the following reasons.

It is submitted that one of ordinary skill in the art would clearly recognize that Applicants were in possession of the claimed compound having specific X-ray crystalline positions recited in claims 4 and 21. The specification describes the present invention in the Disclosure of the Invention. The specification also discloses how to make the compound having the specific X-ray crystalline positions, for example, in Example 4 on pages 21-24 of the specification. Further, the melting point, IR spectra, and elemental analysis of the compound were measured.

In addition, an executed Declaration under 37 C.F.R. § 1.132 is submitted herewith setting forth how and when the error was discovered, and how the product disclosed in the four corners of the specification as originally filed has an X-ray diffraction pattern that is identical to that recited in claims 4 and 21-23 and the drawings as originally filed.

Accordingly, it is submitted that claims 4 and 21-23 are adequately supported by the written description and the claims contain no new matter, and comply with the requirements of 35 U.S.C. § 112, first paragraph.

For the foregoing reasons, reconsideration and withdrawal of the objection and rejections is respectfully requested.

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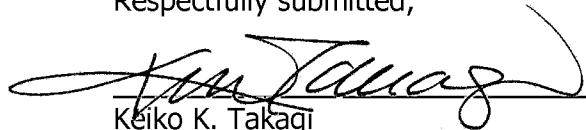
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If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Keiko K. Takagi', written over a horizontal line.

Keiko K. Takagi

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